IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.12.2006

Coram:

The Honourable Mr.Justice P.JYOTHIMANI

Writ Petition No.47911 of 2006

P.Sudha Deaver .. Petitioner

Vs.

1. The Deputy Director (Municipal Administration),
   Government of Pondicherry,
   Local Administration Department,
   Pondicherry.

2. The Commissioner,
   Mahe Municipality,
   Mahe, Union Territory of Pondicherry
   Chennai-600 006. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records relating to the impugned order of the first respondent in Order No. 12271/LAD/MA(2)/MM/2006 dated 01.12.2006 and quash the same.

For Petitioner : Mr.P.Rajendran

For Respondents: Mr.K.K.Sasidharan,
Addl. GP (Pondicherry)

O R D E R

The writ petition has been filed challenging the order of the first respondent dated 01.12.2006, in which the petitioner, who was working as Junior Assistant in the Mahe Municipality, Pondicherry has been transferred to the Oulgaret Municipality in Pondicherry on public interest.

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2. I have heard Mr.P.Rajendran, learned counsel appearing for the petitioner. Mr.K.K.Sasidharan, Addl.GP (Pondicherry) had taken notice on behalf of the respondents.

3. The only point on which the transfer order is challenged is that the Deputy Director (Municipal Administration) has no jurisdiction to pass the order. On the other hand, learned Addl. GP (Pondicherry) appearing for the respondents would submit that the Deputy Director (Municipal Administration) is acting on behalf of the Government and therefore, it is in confirmity with Rule 115 of the Pondicherry Municipalities Act, which contemplates that the Government has got all powers to transfer the officers and servants of the Municipalities. In view of the abovesaid submission, I do not think the reason raised by the petitioner about the jurisdiction of the first respondent in passing the impugned order, is sustainable. Another reason submitted by the learned counsel for the petitioner is that the petitioner is working in Mahe Municipality for the past 27 years and she does not know the Tamil Language and hence she is unable to work in the newly transferred place. It is also the case of the petitioner that the petitioner and her family members are all settled at Mahe, and by the impugned order, she was transferred to a far off place and hence the petitioner will not be able to live with her husband and son. In view of the above reasons, the counsel for the petitioner expressed the inability of the petitioner to join in the said transferred place.

4. On the other hand, the learned Addl. GP (Pondicherry) appearing for the respondents would submit that the very fact that the petitioner was working in the Mahe Municipality for 27 long years shows that she is liable to be transferred in case of transfer. He further submitted that the person who has passed the order of transfer is competent to pass such order as per the Act, as stated above.

5. In view of the above, I do not find any reason for interfering with the impugned order. However for any grievance of the petitioner with regard to her transfer, it is always open to the petitioner to make a representation to the first respondent on her joining in the transferred place. On such representation being made, it is open to the first respondent to consider the same in accordance with law and pass appropriate orders within eight weeks thereafter.

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6. With the above direction, the writ petition is disposed of. No costs. Consequently, M.P.Nos.1 and 2 of 2006 are closed.

km

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Deputy Director (Municipal Administration),
   Government of Pondicherry,
   Local Administration Department,
   Pondicherry.

2. The Commissioner,
   Mahe Municipality,
   Mahe, Union Territory of Pondicherry
   Chennai-600 006.

+ 1 cc to Sr Govt Pleader (Pondy) SR No. 61677

+ 1 cc to Mr. P. Rajendran, Advocate SR No. 61775

GM(CO)
SR/14.12.2006

W.P.No.47911 of 2006

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